

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

INFORMATION LOGISTICS, INC.,

Plaintiff,

v.

ARCADIS IBI GROUP (US) LLC,

Defendant.

C.A. No. 2:24-cv-3610

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Information Logistics, Inc. (“Plaintiff” or “ILOG”), by and through its undersigned attorneys brings this complaint against Defendant Arcadis IBI Group (US) LLC (“Defendant” or “Arcadis IBI”) and alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement of U.S. Copyright Registration No. TX 9-356-737 (Ex. A), arising under the copyright laws of the United States, as well as an action for unfair competition and tortious interference with a prospective contractual relationship, arising under the laws of the Commonwealth of Pennsylvania.

PARTIES

2. Plaintiff ILOG is a Pennsylvania corporation with its principal place of business at 2500 McClellan Avenue, Pennsauken, New Jersey 08109.

3. On information and belief, Defendant Arcadis IBI is a Delaware limited liability company, and its registered agent is The Corporation Trust Company located at 1209 N. Orange St., Corporation Trust Center, Wilmington, Delaware 19801.

4. On information and belief, in September 2022 Arcadis, a parent company of Arcadis IBI, announced that it acquired IBI Group Inc. forming Arcadis IBI.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over ILOG's copyright infringement claim pursuant to 28 U.S.C. §§ 1331 and 1338, because the action arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*

6. Pursuant to 28 U.S.C. § 1367 this Court has supplemental jurisdiction over the remaining tortious interference with a prospective contractual relationship (Count II) and unfair competition (Count III) claims because these claims arise from the same controversy and share a common nucleus of operative fact as ILOG's copyright infringement claim.

7. This Court has personal jurisdiction over Arcadis IBI because, on information and belief, Arcadis IBI does business in the Commonwealth of Pennsylvania and this judicial district, and Arcadis IBI's actions giving rise to Counts I-III were in response to a Request for Proposals issued by the Pennsylvania Department of Transportation ("PennDOT") to provide services in the Commonwealth of Pennsylvania including in this judicial district.

8. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because the facts giving rise to the claims alleged revolve around a Request for Proposals issued by PennDOT to provide services in the Commonwealth of Pennsylvania including this judicial district.

FACTS

ILOG's Computer Software Program, "IRIS" (marketed as "HELP Alerts")

9. ILOG creates, designs, and builds award-winning technology supporting public information, public-facing services, and internal communications for the transportation industry.

10. ILOG created an original and unique computer software program that it internally refers to as "IRIS." IRIS is marketed in conjunction with INRIX as "HELP Alerts". HELP Alerts is a two-way communication system that is tailored to help state departments of transportation get in touch with travelers who are stuck on roadways.

11. HELP Alerts is an innovative SaaS system. On a fundamental level, HELP Alerts works as follows, the state department of transportation can enter information about an emergency, including a Wireless Emergency Alert (“WEA”) message, shape of the area to be targeted, and the requested duration of the WEA. The information is then sent to the emergency management agency (“EMA”) that has jurisdiction, and the EMA reviews the information entered by the state department of transportation. With a quick review, the EMA can then approve the WEA for distribution, or reject it with a note to tell the state department of transportation what portions of WEA should be changed. The WEA the travelers receive contains a link to a page where travelers can register to receive updates throughout the emergency.

12. ILOG provides each user with its own white-labeled website. Examples of which include the following domain names: 511PAConnect.com, 511NJConnect.com, GAAAlert.com, TXdotalerts.com, Aldotalert.com, etc.

13. Specifically, 511PAConnect allows Pennsylvania transportation agencies to establish two-way communications directly from the agency operations center to the travelers’ smartphones, who are stuck on the roadways, rather than through an intermediary. 511PAConnect accomplishes this by using a simple interface to create a dynamic website, text messaging system, and an IVR phone system. It directly connects travelers to the agency staff for the duration of the road closure, and does so without needing a mobile app, or any other kind of pre-registration. Travelers are geo-targeted thanks to an integration with FEMA’s WEA, the same system that is used for Amber alerts, weather warnings, and other emergencies.

14. Winter storm Jonas in 2016 prompted ILOG to eventually develop the IRIS system.

15. In July 2016, the “IRIS” name was determined, and the creation of the IRIS software became a tracked ILOG research and development project.

16. On December 19, 2016, ILOG registered the domain 511PACONNECT.COM.

17. On December 23, 2016, a press release announced the launch of 511PAConnect.

18. In May 2017, a Memorandum of Agreement (“MOA”) between ILOG and the Federal Emergency Management Agency Integrated Public Alert and Warning System (IPAWS) Program Management Office was executed. The purpose of the MOA was to establish a management agreement between ILOG and FEMA regarding the development, management, operation, and security of a connection between the IRIS program in Pennsylvania, 511PAConnect, and the Integrated Public Alert and Warning System – Open Platform for Emergency Networks (IPAWS-OPEN), owned by FEMA.

19. From December 2017 until January 2018 ILOG worked on FEMA WEA integration and initial testing with FEMA.

20. On April 29, 2019, ILOG was added to FEMA’s alerting software providers list.

PennDOT Issues RFP 3522R03 511PA Traveler Information Services

21. On January 4, 2023, PennDOT issued RFP 3522R03 511PA Traveler Information Services (“the RFP”). Proposals were due February 2, 2023.

22. At the time, ILOG was in a contractual relationship to provide the services or similar service for which PennDOT issued the RFP.

23. On February 24, 2023, PennDOT requested a “Best and Final Offer” from ILOG.

24. On April 4, 2023, at a trade show, Mike Haas, a former Manager with Arcadis IBI Group at ITS Carolinas, verbally informed John Farrell, Vice President of ILOG, that Arcadis IBI was awarded the contract with PennDOT.

25. After receiving this information from Arcadis IBI, ILOG emailed PennDOT on April 4, 2023, to ask if an intent to award letter was issued. PennDOT replied in a matter of minutes stating that the proposals were still under evaluation.

26. Approximately one month after this exchange, on May 2, 2023, PennDOT emailed ILOG informing ILOG its proposal was not selected.

27. On August 22, 2023, PennDOT requested an extension of the existing contract between ILOG and PennDOT.

28. On October 9, 2023, ILOG requested a debrief with PennDOT.

29. On October 20, 2023, the debrief meeting was held and John Farrell and Beth Abruscato, the Chief Executive Officer at ILOG, attended the meeting on behalf of ILOG.

30. On November 15, 2023, ILOG obtained Arcadis IBI's proposal (Ex. B) through a Right to Know Request. Upon review of Arcadis IBI's proposal it was apparent that Arcadis IBI copied significant portions of ILOG's material from various promotions and presentations and used these copies in its proposal as explained in greater detail in the below paragraphs.

31. On December 29, 2023, ILOG received notice from PennDOT that Arcadis IBI requested a copy of ILOG's proposal in response to the RFP.

32. On January 8, 2024, ILOG responded to PennDOT's Right to Know Request, with redactions and explanations for the redactions. The redactions ILOG made to its proposal had to be accepted by PennDOT. Therefore, ILOG is unaware of whether its proposal was sent to Arcadis IBI with its requested redactions or not.

33. On January 22, 2024, ILOG obtained Arcadis IBI's contract file from the Pennsylvania Treasury website.

34. From February 16, 2023 to April 30, 2024, PennDOT requested multiple extensions to the contract that existed between ILOG and PennDOT that had been effective since December 13, 2018.

U.S. Copyright Registration No. TX 9-356-737

35. On February 28, 2018, ILOG first published the 2018 version of the 511PAConnect computer program and the 511PAConnect Admin User Guide.

36. The 511PAConnect computer program and 511PAConnect Admin User Guide is an original creative work entitled to copyright protection and is subject to U.S. Copyright Registration No. TX 9-356-737, attached hereto as Ex. A.

37. The deposit copy submitted to the United States Copyright Office to apply for U.S. Copyright Registration (Ex. C) contains the first twenty-five pages and last twenty-five pages of source code for the 2018 version of the 511PAConnect computer program with redactions. *Id.* at 1-51. The deposit copy also contains a copy of the 511PAConnection Admin User Guide. *Id.* at 52-80. In addition, the last two pages contain two screenshots of screen displays generated by the source code for the 2018 version of the 511PAConnect computer program (“the two screenshots”). *Id.* at 81-82.

Letters Between ILOG and Arcadis IBI

38. On February 23, 2024, legal counsel for ILOG sent a letter to Arcadis IBI regarding its unauthorized use of ILOG’s materials in response to PennDOT’s RFP. (Ex. D). In the letter, ILOG demanded that Arcadis IBI cease and desist from further use and reproduction of ILOG’s proprietary work and remove delete or destroy all materials using or reproducing ILOG’s proprietary work. Also, ILOG demanded Arcadis IBI provide it with written assurances that Arcadis IBI will not use ILOG’s propriety work or create substantially similar works.

39. On March 15, 2024, legal counsel for Arcadis IBI responded to ILOG's February 23, 2024 letter. (Ex. E). Arcadis IBI denied any unauthorized use or reproduction of the IRIS program. Arcadis IBI's counsel proceeded to explain: "our client's submission was made in accordance and in compliance with the RFP proposal requirements and has not and does not intend to make any use of any related images or designs that may have been part of such RFP proposal requirements." *Id.* at 1.

40. On April 11, 2024, legal counsel for ILOG responded to Arcadis IBI's March 15, 2024 letter. (Ex. F). In its reply letter, ILOG reiterated the demands from the February 23, 2024 letter and, in addition, requested Arcadis IBI permit ILOG to examine its proposed deliverable to PennDOT. ILOG explained that the available facts strongly suggest that Arcadis IBI copied significant portions of ILOG's material from various promotions and presentations and used these copies to make its proposal in response to the RFP issued by PennDOT. As stated in the letter, the locations of these materials include, but are not limited to, ILOG's 2018 Heartland ITS Presentation, ILOG's ITS America 2018 511PA Connect Presentation, and ILOG's website.

**Arcadis IBI Copied and Used Without Authorization Material
from ILOG's Work of Authorship, its Presentations, and its Website**

41. ILOG's April 11, 2024, letter detailed six examples of instances where Arcadis IBI copied ILOG's work of authorship, its presentations, and/or its website. (Ex. F at 2-4). The examples are listed below as they appeared in the April 11, 2024 letter.

Example 1: Language Similarities:

Arcadis/IBI RFP Response:

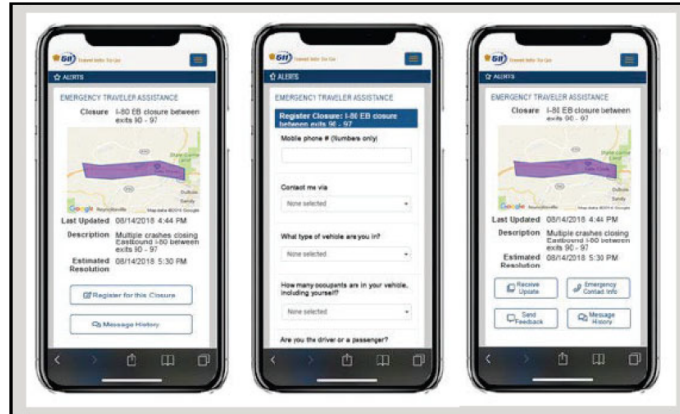
- "give emergency crews a clearer picture" in p 34 of the Arcadis/IBI response to RFP.

ILOG Heartland ITS 2018 Presentation:

- "Gives emergency crews a clearer picture" in slide 41 of Heartland ITS 2018 PowerPoint.

Examples 2, 3, and 4: Visual Similarities:**Arcadis/IBI RFP Response:**

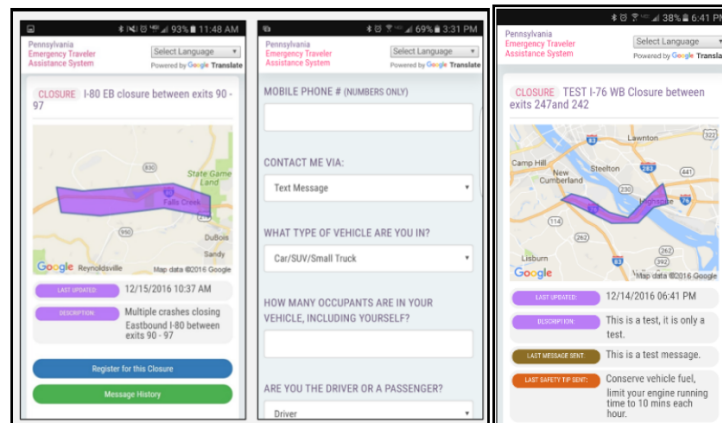
- Next to these 3 images on page 36 of the Arcadis/IBI RFP response, Arcadis/IBI states: “We have drafted proposed designs for the emergency traveler assistance system for public travelers.”

**ILOG ITS America 2018 511PA Connect Presentation:**

- The first 2 images below were from a presentation that ILOG prepared for PennDOT & the PA Turnpike Commission (PTC) which was delivered by Mark Kopko from PennDOT and Mike Pack from the PTC. Arcadis/IBI did and still does have a contract with the PTC in Traffic Operations.

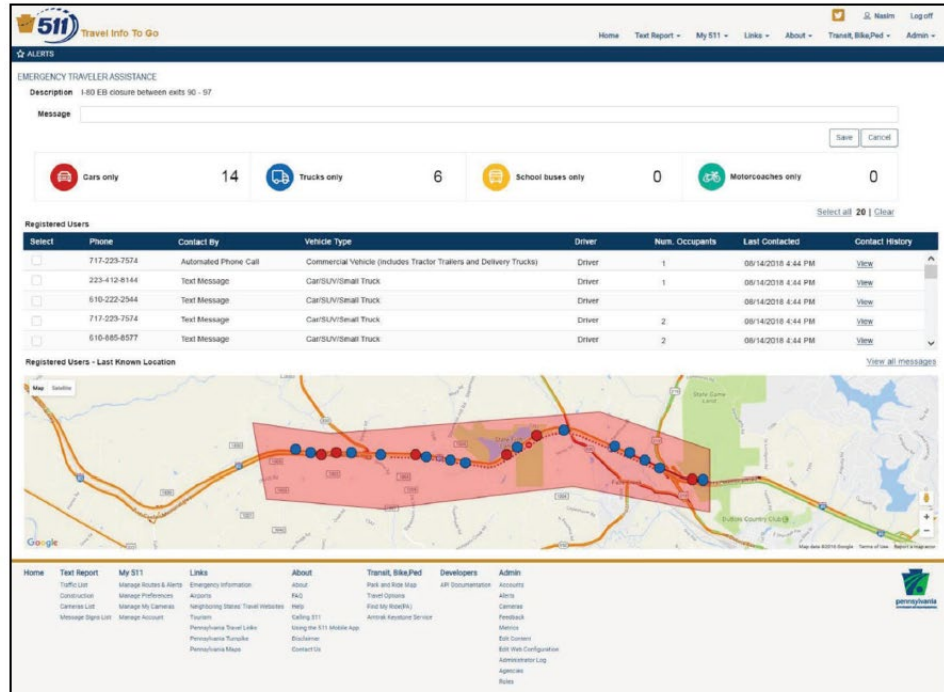
ILOG Website:

- The 3rd image below is from ILOG's website, and it shows additional buttons/header items on the public webpage, like Arcadis/IBI proposed in their 3rd image above.

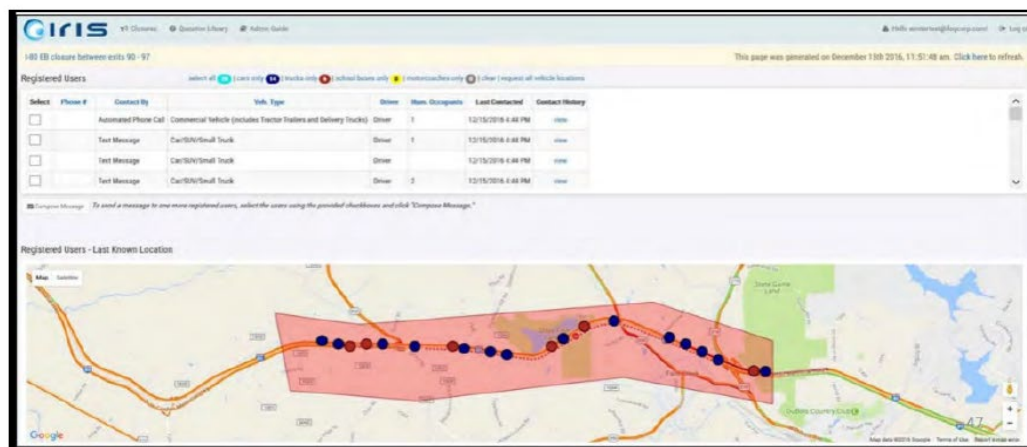


Example 5: Visual Similarities:**Arcadis/IBI RFP Response:**

- The following shows wording the Arcadis/IBI RFP response (p 35) had above this image: “Arcadis IBI’s proposed design for the 511PA Connect service with polygon drawing can be seen below:”



- The above is a copy of the following:

ILOG Heartland ITS 2018 Presentation:

Example 6: Visual Similarities:**Arcadis/IBI RFP Response:**

- Message Screen:

511 Travel Info To Go

Home Text Report My 511 Links About Transit, Bike/Ped Admin

ALERTS

EMERGENCY TRAVELER ASSISTANCE

Description: I-80 EB closure between exits 90 - 97

Select	Time	Phone	Message
<input type="checkbox"/>	08/14/2018 4:54 PM	717-223-7574	Been here for 45 mins!! When is this closure ending?!
<input type="checkbox"/>	08/14/2018 4:58 PM	223-412-8144	Help!! My wife is in labour and I need an ambulance
<input type="checkbox"/>	08/14/2018 5:07 PM	610-222-2544	Opt-in to receive updates
<input type="checkbox"/>	08/14/2018 5:09 PM	717-223-7574	The storm passed already!! Why is it taking so long?
<input type="checkbox"/>	08/14/2018 5:19 PM	610-885-8577	Opt-in to receive updates

Message:

Reply Cancel

Estimated Resolution Time: 8/14/2018 5:30 PM

Home Text Report My 511 Links About Transit, Bike/Ped Developers Admin

Traffic List Manage Routes & Alerts Accounts
 Construction Manage Preferences RSS
 Cameras List Manage My Cameras Neighbouring States Travel Websites
 Message Signs List Manage Account Tourists
 Pennsylvania Travel Links
 Pennsylvania Turnpike
 Pennsylvania Maps

About
 Emergency Information
 About
 RSS
 Help
 Calling 511
 Using the 511 Mobile App
 Disclaimer
 Contact Us

Transit, Bike/Ped
 Park and Ride Map
 Transit Options
 Find My Route(PA)
 Amtrak KeyStone Service

API Documentation
 Accounts
 Alerts
 Cameras
 Feedback
 Metrics
 Edit Content
 Edit Page Configuration

pennsylvania

ILOG System Screen:

- Messages (Phone numbers blacked out for privacy):

Note: this is a current version of the screen. The 2018 version of this screen may not have had highlighted coloring.

System test - DISREGARD - DISREGARD - DISREGARD - DISR

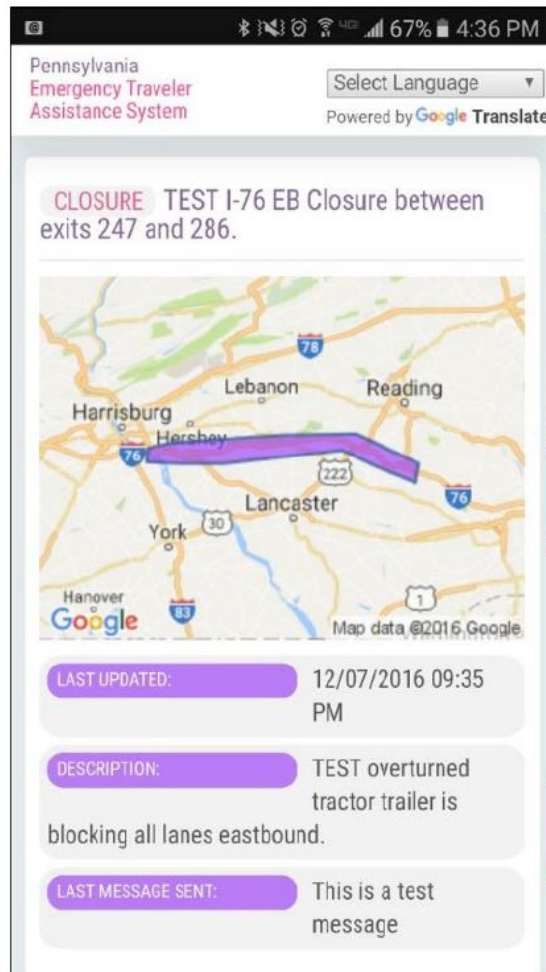
This page was generated on April 3rd 2024, 11:09:04 am. [Click here to refresh.](#)

Messages select all 3 unread 3 clear

Select	Date / Time	From	Message	Marked as Read By
	2024-04-03 11:06 AM		Please keep exhaust area clear of snow at all times.	
<input type="checkbox"/>	2024-04-03 11:02 AM	[REDACTED]	Can we leave our vehicle?	
<input type="checkbox"/>	2024-04-03 11:02 AM	[REDACTED]	Are there restrooms nearby?	
<input type="checkbox"/>	2024-04-03 11:02 AM	[REDACTED]	When will the road be cleared?	
	2024-04-03 11:01 AM		Crews are on scene	

42. The second image from ILOG's ITS America 2018 511PA Connect Presentation displayed above in Examples 2, 3, and 4 is the screenshot on page 82 of the deposit copy (Ex. C at 82) subject to U.S. Copyright Registration No. TX 9-356-737. The screenshot is of a screen display generated by the source code for the 2018 version of the 511PAConnect computer program. The 511PAConnect Admin User Guide also subject to U.S. Copyright Registration No. 9-356-737 contains an image that is substantially similar to the first and third images from

Arcadis IBI's RFP response displayed in Examples 2, 3, and 4 above. (Ex. C at 65). This image from the 511PAConnect Admin User Guide is displayed below as it is depicted in the deposit copy for US Copyright Registration No. TX 9-356-737.



43. The screenshot on page 81 of the deposit copy (Ex. C at 81) subject to U.S. Copyright Registration No. TX 9-356-737 is the same screenshot from the ILOG Heartland ITS 2018 Presentation in Example 5.

44. The 511PAConnect Admin User Guide subject to U.S. Copyright Registration No. TX 9-356-737 does not contain an image of the ILOG System Screen depicted above in Example 6 but does contain an image of an interface of the 511PAConnect computer program that is

substantially similar to the Arcadis IBI message screen in its RFP Response in Example 6. (Ex. C at 69). This image from the 511PAConnect Admin User Guide is displayed below as it is depicted in the deposit copy for US Copyright Registration No. TX 9-356-737.

Messages select all unread clear				
Select	Date / Time	From	Message	Marked as Read By
<input checked="" type="checkbox"/>	2017-01-31 02:54 PM	8888888888	How soon?	
<input type="checkbox"/>	2017-01-31 02:54 PM	9999999999	That is great news!	
	2017-01-31 02:54 PM		Traffic will be moving soon.	
<input type="checkbox"/>	2017-01-31 02:53 PM	8888888888	Thank you for the update	
<input type="checkbox"/>	2017-01-31 02:53 PM	9999999999	JLF says thanks	
	2017-01-31 02:53 PM		The roadway is completely blocked.	
<input type="checkbox"/>	2017-01-31 02:52 PM	8888888888	Reply 34498	
<input type="checkbox"/>	2017-01-31 02:52 PM	9999999999	JLF test initial	
	2017-01-31 02:51 PM		511PA: You are registered for recurring text updates. Info at bit.ly/2iH030I Reply HELP for terms of use, STOP to cancel. Msg&Data Rates May Apply	
<div> <input type="button" value="Compose Message"/> <input type="button" value="Mark as Read"/> Select one or more messages using the checkboxes provided and click the appropriate action button. </div>				

45. Arcadis IBI did not respond to ILOG's April 11, 2024 letter containing the above listed six examples of Arcadis IBI copying ILOG's work of authorship, its presentations, and its websites.

Copyright Infringement (Count I)

46. ILOG hereby adopts and incorporates by reference the allegations set forth in the preceding Paragraphs as though fully pleaded herein.

47. ILOG's Copyright Registration No. TX 9-356-737 is valid and subsisting. (Ex. A).

48. The Work represented by Copyright Registration No. TX 9-356-737 is an original work of authorship, fixed in a tangible medium of expression from which it can be perceived, reproduced, or otherwise communicated.

49. The deposit copy (Ex. C) submitted to the United States Copyright Office to apply for U.S. Copyright Registration No. TX 9-356-737 (Ex. A) contains the first twenty-five pages and last twenty-five pages of source code for the 2018 version of the 511PAConnect computer program with redactions. (Ex. C at 1-51). The deposit copy also contains a copy of the 511PAConnection Admin User Guide. *Id.* at 52-80. In addition, the last two pages contain two screenshots of screen displays generated by the source code for the 2018 version of the 511PAConnect computer program (“the two screenshots”). *Id.* at 81-82.

50. Arcadis IBI had access to images from the 511PAConnection Admin User Guide and the two screenshots at least through ILOG’s 2018 Heartland ITS Presentation, ILOG’s ITS America 2018 511PA Connect Presentation, and ILOG’s website.

51. The Arcadis IBI proposal contains copies of protectable original works of authorship of ILOG’s two screenshots, and also contains elements that are substantially similar to the protectable original works of authorship of ILOG’s 511PAConnection Admin User Guide. Therefore, Arcadis IBI have infringed ILOG’s copyright in the work represented by Copyright Registration No. TX 9-356-737 by copying, reproducing, and/or distributing unauthorized copies of the two screenshots and images from the 511PAConnect Admin User Guide, or substantially similar copies of the two screenshots images from the 511PAConnect Admin User Guide, in its response to RFP 3522R03 issued by PennDOT.

52. Arcadis IBI’s infringing activity was intentional, willful, and deliberate.

53. Arcadis IBI’s infringing activity caused harm to ILOG.

54. Arcadis IBI's proposal in response to PennDOT's RFP was selected instead of ILOG's proposal.

55. As a direct and proximate result of Arcadis IBI's infringement of ILOG's copyright, ILOG suffered certain monetary damages.

56. As a result, ILOG has suffered actual damages in amount to be determined at trial, in accordance with 17 U.S.C. § 504(b).

57. Arcadis IBI's infringing activity and the threat of continuing and future infringement have caused and will continue to cause harm to ILOG. ILOG has no adequate remedy at law for Arcadis IBI's infringement of its rights. ILOG is therefore entitled to injunctive relief against Arcadis IBI.

Tortious Interference with Prospective Contractual Relationship (Count II)

58. ILOG hereby adopts and incorporates by reference the allegations set forth in the preceding Paragraphs as though fully pleaded herein.

59. At the time Arcadis IBI copied images, or substantially similar copies of images, from ILOG's website, presentations, and its 511PAConnect Admin User Guide subject to U.S. Copyright Registration No. TX 9-356-737, ILOG had a prospective contractual relationship with PennDOT.

60. Such contractual relationship with PennDOT had a reasonable likelihood of occurring but for Arcadis IBI's interference. ILOG was in a contractual relationship with PennDOT when the RFP was issued. PennDOT informed ILOG that if PennDOT did not select Arcadis IBI's response to its RFP, PennDOT would have selected ILOG's RFP and entered a contractual relationship with ILOG.

61. By copying ILOG's images, Arcadis IBI took purposeful action, specifically intended to prevent the prospective contractual relation between ILOG and PennDOT from occurring.

62. Arcadis IBI's actions were improper and not privileged.

63. As a result, ILOG has suffered actual damages in amount to be determined at trial.

Unfair Competition (Count III)

64. ILOG hereby adopts and incorporates by reference the allegations set forth in the preceding Paragraphs as though fully pleaded herein.

65. As set forth above, Arcadis IBI have employed unfair and deceptive trade practices and methods of competition intended to interfere with ILOG's ability to fairly compete with Arcadis IBI.

66. Arcadis IBI intentionally and willfully copied images and other elements, or substantially similar copies of images and other elements, of ILOG's original work of authorship, presentations, and websites and used these images in its response to PennDOT's RFP 3522R03, to which ILOG was also submitting a response.

67. Arcadis IBI's intentional misappropriation of ILOG's proprietary images gave it a competitive advantage over ILOG in responding to PennDOT's RFP 3522R03.

68. Arcadis IBI is a direct competitor of ILOG.

69. Arcadis IBI's software product is used in interstate commerce.

70. As a direct and proximate result of Arcadis IBI's unfair competition, ILOG suffered harm and actual damages in an amount to be determined at trial.

DEMAND FOR JURY TRIAL

ILOG respectfully demands a trial by jury in this action of issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Information Logistics, Inc. respectfully prays for the following relief against Defendant Arcadis IBI Group (US) LLC, as follows:

- (a) That Arcadis IBI, and its respective officers, directors, shareholders, principals, agents, servants, employees, clients, customers, attorneys, and related companies, and all persons in active concert or participation with Arcadis IBI, be preliminary and permanently enjoined and restrained from using the work protected under U.S. Copyright Right Registration No. TX 9-356-737 or any works that are substantially similar thereto or derived therefrom.
- (b) Any damages suffered by ILOG for Arcadis IBI's unauthorized use of ILOG's proprietary images;
- (c) Arcadis IBI be required to disgorge to ILOG all revenues, income or profits earned from the above-mentioned activity;
- (d) ILOG's costs in connection with this action;
- (e) LOG's attorneys' fees in connection with this action due to Arcadis IBI's willful and intentional copying and misappropriation of ILOG's proprietary images and its unauthorized use of such images; and
- (f) Any other relief that the Court finds warranted and just.

Dated: July 31, 2024

Respectfully Submitted,

/s/ John D. Simmons

John D. Simmons (ID 202405)

Ava E. Lutz (ID 332553)

Steven D. Lustig (*pro hac vice* to be filed)

PANITCH SCHWARZE BELISARIO & NADEL LLP

Two Commerce Square

2001 Market Street, Suite 2800

Philadelphia, PA 19103

Telephone: (215) 965-1268

Facsimile: (215) 965-1331

jsimmons@panitchlaw.com

alutz@panitchlaw.com

slustig@panitchlaw.com

Attorneys for Plaintiff

Information Logistics, Inc.